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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,738	01/22/2004	Francis S. Smidler	739/40601/401	5616
279	7590	07/05/2005		
TREXLER, BUSHNELL, GIANGIORGI, BLACKSTONE & MARR, LTD. 105 WEST ADAMS STREET SUITE 3600 CHICAGO, IL 60603			EXAMINER GORDON, STEPHEN T	
			ART UNIT	PAPER NUMBER
			3612	

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/762,738

Applicant(s)

SMIDLER, FRANCIS S.

Examiner

Stephen Gordon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 4-12 is/are allowed.
- 6) ☒ Claim(s) 1-3 and 13-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 June 2004 and 12 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-3 and 13-20, as newly amended, are rejected under 35 U.S.C. 103(a) as being unpatentable over Abbott et al.

Abbott et al (figure 7 embodiment) teaches a trailer sidewall construction including a bottom rail (75) as broadly claimed, a composite panel 11 with inner and outer skins 31 and a core 30, and a base rail 70 attached and configured as broadly claimed.

Re claim 1 as newly amended, the bottom rail 75 (figure 7 embodiment) is deemed secured to a lower portion (76+) of the base rail as broadly claimed – note also section 3, lines 18-23.

Further regarding newly amended claim 1, Abbott et al (figure 7 embodiment) teaches all of the claimed features as discussed above regarding claim 1 and further teaches that the bottom rail 75 is of a one piece continuous extruded construction. The reference fails to specifically teach that the length of such continuous construction extends generally from the front end of the trailer to the rear end of the trailer.

Regarding the specific length of the bottom rail, use of a continuous extrusion of the bottom rail 75 which extends generally the length of the trailer would not

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be an uncommon length and would typically be extruded as a single piece to reduce assembly time/costs. Specific recitation of the length of the continuous piece then in this case would not define a patentable departure from the teachings of Abbott et al.

Re claim 2, the base rail 70 abuts the inner skin – see figure 7.

Re claim 3, see figure 7.

Re claims 13 and 14, Abbott et al (figure 7 embodiment) teaches all of the claimed features as discussed above regarding claim 1 and further teaches that the base rail 70 is of a one piece continuous extruded construction. The reference fails to teach that the length of such continuous construction is 52 feet.

The specific length of the rail would be driven by the desired length of the trailer.

A continuous extrusion of the shape of base rail 70 of 52 feet would not be an uncommon length and would typically be extruded as a single piece to reduce assembly time/costs. Specific recitation of the length of the continuous piece then in this case would not define a patentable departure from the teachings of Abbott et al.

Re claims 15 and 16, Abbott et al fails to teach a specific height of the base rail of 22 inches or the specific thickness of the base rail of nineteen-hundredths of an inch. The specific height or thickness of the base rail would be driven by the particular application for which the trailer is designed and would include such considerations as strength, weight etc. Specific recitation of the height or

thickness of the base rail then in this case would not define a patentable departure from the teachings of Abott et al.

Re claims 17 and 18, rail 70 is formed of strong lightweight aluminum.

Re claim 19, the device includes multiple panels 11 joined by joint configuration 14+ (see figure 3).

Re claim 20, the base rail is deemed inset as broadly claimed.

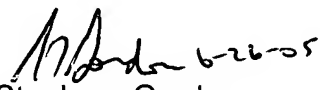
3. Claims 4-12 are allowed.
4. Applicant's arguments with respect to the rejected claims have been considered but are moot in view of the new ground(s) of rejection.
5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen Gordon whose telephone number is (571) 272-6661. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Stephen Gordon
Primary Examiner
Art Unit 3612

stg